

HOUSE BILL 174

By Butt

AN ACT to amend Tennessee Code Annotated, Title 37  
and Title 49, Chapter 6, relative to student  
discipline.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, is amended by adding the following language as a new, appropriately designated part:

(a) As used in this section:

(1) "Director of schools" or "director" means the director of schools, or the director's designee, in the county, city, town, or special school district;

(2) "Expel" or "expulsion" means removal from attendance for more than ten (10) consecutive days or more than fifteen (15) days in a month of school attendance;

(3) "Principal":

(A) Means the administrative head of a public school, by whatever title the person may be known; and

(B) Includes the principal, principal-teacher, assistant principal, or principal's designee;

(4) "Remand" means assignment to an alternative school; and

(5) "Violent felony" has the same meaning as defined in § 40-35-321(e).

(b) Upon the issuance of a criminal complaint charging a student with a violent felony or upon the issuance of a violent felony delinquency complaint against a student, the director of schools of a school in which the student is enrolled may expel or remand the student to an alternative school for a period of time determined appropriate by the

director of schools if the director determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school.

(c) Upon a student being convicted of a violent felony or upon an adjudication or admission in court of guilt with respect to a violent felony or violent felony delinquency, the director of schools of a school in which the student is enrolled shall expel the student if the director of schools determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school.

(d) Upon the occurrence of subsection (b) or (c), the director of schools shall immediately give written or actual notice to the parent or guardian and the student of the right to appeal the decision to expel or remand the student to an alternative school. All appeals shall be filed, orally or in writing, within five (5) days after receipt of the notice and may be filed by the parent or guardian, the student, or any person holding a teaching license who is employed by the school system if requested by the student.

(e) The appeal from this decision shall be to the board of education or to a disciplinary hearing authority appointed by the board. The disciplinary hearing authority, if appointed, shall consist of at least one (1) licensed employee of the LEA, but no more than the number of members of the local board.

(f) The hearing shall be held no later than ten (10) days after the beginning of the expulsion or remand. The local board of education or the disciplinary hearing authority shall give written notice of the time and place of the hearing to the parent or guardian, the student, principal, and director of schools who ordered the expulsion or remand. Notice shall also be given to the LEA employee referred to in subsection (d) who requests a hearing on behalf of a student who is expelled or remanded.

(g) After the hearing, the board of education or the disciplinary hearing authority may affirm the decision of the director of schools, order removal of the expulsion, remand unconditionally, or, upon such terms and conditions as it deems reasonable, assign the student to an alternative program or night school, or suspend the student for a specified period of time.

(h) If the decision is determined by a disciplinary hearing authority, a written record of the proceedings, including a summary of the facts and the reasons supporting the decision, shall be made by the disciplinary hearing authority. The student or principal may, within five (5) days of the decision, request review by the board of education; provided, that local school board policy may require an appeal to the director of schools prior to a request for review to the board. Absent a timely appeal, the decision shall be final. The board of education, based upon a review of the record, may grant or deny a request for a board hearing and may affirm or overturn the decision of the disciplinary hearing authority with or without a hearing before the board; provided, that the board may not impose a more severe penalty than that imposed by the disciplinary hearing authority without first providing an opportunity for a hearing before the board. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher, or assistant principal, then, notwithstanding the open meetings laws compiled in title 8, chapter 44, or other law to the contrary, the hearing shall be closed to the public, unless the student or student's parent or guardian requests in writing within five (5) days after receipt of written notice of the hearing that the hearing be conducted as an open meeting. If the board conducts a hearing as a result of a request for review by a student or principal that is closed to the public, then the board shall not conduct any business, discuss any subject, or take a vote on any matter other than the appeal to be heard. Nothing in this subsection (h) shall exclude the department of children's services from the disciplinary hearings when the department is exercising its obligations under § 37-1-140. The action of the board of education shall be final.

(i) In the event the expulsion or remand occurs during the last ten (10) days of any term or semester, the student may be permitted to take final examinations or submit

required work that is necessary to complete the course of instruction for that term or semester, subject to the action of the director or the final action of the board of education upon any appeal from an order of a principal continuing an expulsion or remand.

(j) The director of schools shall have the sole authority to readmit a student who is expelled or remanded to an alternative school pursuant to subsection (b) or (c) to the school in which the student was enrolled prior to the expulsion or remand.

(k) Nothing in this section shall require an LEA to enroll a student who is expelled or remanded in an LEA in either this state or another state. The director of schools for the school system in which the expelled or remanded student requests enrollment shall make a recommendation to the local board of education to approve or deny the request. The recommendation shall occur only after investigation of the facts surrounding the expulsion or remand from the former school system. If the recommendation is to deny admission and if the local board approves the director of schools' recommendation, the director of schools shall, on behalf of the board of education, notify the commissioner of the decision. Nothing in this subsection (k) shall affect children in state custody or their enrollment in any LEA. Any LEA that accepts enrollment of a student from another LEA may dismiss the student if it is determined subsequent to enrollment that the student had been expelled or remanded by the other LEA.

(l) Nothing in this section shall interfere with requirements or consultations between the juvenile, the court, and an LEA pursuant to title 37 if the court finds a juvenile to be delinquent as a result of an act pursuant to § 37-1-131.

SECTION 2. This act shall take effect July 1, 2015, the public welfare requiring it, and shall apply to any violent felonies or violent felony delinquency acts occurring on or after that date.